

NOT FOR PUBLICATION

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN

LOCKHART REALTY, INC.	)	
	)	
Plaintiff,	)	Civil No. 2003-162
	)	
v.	)	
	)	
ISLAND VIDEO GROUP, INC.	)	Action for Debt and to Enforce
	)	Guaranty
Defendant.	)	
_____	)	

ATTORNEYS:

Rachel E. Morrison, Esq.  
*For the plaintiff,*

Joseph Mingolla, Esq.  
*For the defendant.*

**Memorandum**

Gomez, J.

Before the Court is a motion by defendant Island Video Group, Inc. ("Island Group") for reconsideration of the Court's judgement and order, dated August 13, 2004, awarding summary judgment to plaintiff Lockhart Realty, Inc. ("Lockhart") and also awarding Lockhart final judgment of ninety thousand two hundred twenty-eight dollars and thirty-one cents (\$90, 228.31) plus interest. For the reasons stated herein, the Court will deny the motion.

## **I. Facts and Procedural History**

On or about February 22, 1999, Lockhart entered into a commercial lease with Island Video of the Virgin Islands ( the "subsidiary"), whose sole shareholder was Island Video Group. Also on that date, Island Group executed and delivered to Lockhart a Guaranty of Lease (the "guaranty") pursuant to which Island Group guaranteed the full performance of the subsidiary's obligations under the lease.

On June 24, 2002, the subsidiary filed for relief under Chapter 11 of the United States Bankruptcy Code. On June 12, 2003, Lockhart filed a proof of claim in the subsidiary's bankruptcy case, to which the subsidiary objected. On December 22, 2003, the Bankruptcy Court allowed Lockhart's claim and ordered that it be compensated in the total amount of \$90, 228.31, plus interest. Lockhart then moved for summary judgment based on the Bankruptcy Court's final order. On August 13, 2004 this Court awarded summary judgment to Lockhart. Island Group then filed a motion to reconsider.

## **II. Standard for Motion to Reconsider**

Island Group filed its motion to reconsider pursuant to Local Rule of Civil Procedure 7.4, which provides:

A party may file a motion asking a judge or magistrate judge to reconsider an order or decision made by that judge or magistrate judge. Such motion shall be filed within ten

(10) days after the entry of the order or decision unless the time is extended by the court. . . . A motion to reconsider shall be based on: 1. intervening change in controlling law; 2. availability of new evidence, or; 3. the need to correct clear error or prevent manifest injustice.

LRCi 7.4.

Notwithstanding LRCi 7.4, Island Group merely reiterates the argument it made in its opposition to Lockhart's motion for summary judgment.<sup>1</sup> Island Group acknowledges this reiteration itself.<sup>2</sup> Island Group further contends that the Court's Order of August 13, 2004, provided insufficient conclusions of law regarding the argument in question, but provides no authority for the allegation that the Court's Order is incomplete. Without citing any change in controlling law, new evidence, or need to correct clear error or prevent manifest injustice, Island Group is not entitled to reconsideration of the Court's order. See *Harsco Corp. v. Zlotnicki*, 779 F.2d 906, 909 (3d Cir. 1985) (stating that the purpose of a motion for reconsideration "is to correct manifest errors of law or fact or to present newly discovered evidence"); see also *Bostic v. AT&T of the Virgin*

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<sup>1</sup> Island Group argues that it should not have to pay Lockhart because it is the stockholder and the subsidiary is the primary obligor, and Title 13, Section 344(b) of the Virgin Islands Code bars the imposition of a lawsuit against a stockholder of a corporation until a judgment is first obtained by the corporation.

<sup>2</sup> At paragraph 3 of Island Group's motion for reconsideration, it summarizes the position it argued in its opposition to Lockhart's motion for summary judgment, specifically noting that the argument originated in the opposition.

*Islands*, 312 F. Supp. 2d 731, 733 (D.V.I. 2004) (noting that a motion for reconsideration "is not a vehicle for registering disagreement with the court's initial decision, for rearguing matters already addressed by the court, or for raising arguments that could have been raised before but were not").

Accordingly, the Court will deny Island Group's motion for reconsideration.

**Entered this 25th day of April, 2005.**

**FOR THE COURT:**

\_\_\_\_\_/s/\_\_\_\_\_  
Curtis V. Gomez  
District Judge

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Rachel E. Morrison, Esq.  
*For the plaintiff,*

Joseph Mingolla, Esq.  
*For the defendant.*

**ORDER**

For the reasons stated in the memorandum of even date it is hereby **ORDERED** that Island Video Group, Inc.'s motion for reconsideration is **DENIED**.

**Entered this 25th day of April, 2005.**

**For the Court:**

\_\_\_\_\_/s/\_\_\_\_\_  
Curtis V. Gomez  
District Judge

**ATTEST:**

**WILFREDO F. MORALES**

By:\_\_\_\_\_/s/\_\_\_\_\_  
Deputy Clerk

**Copies to:**

Hon. G.W. Barnard  
Rachel E. Morrison, Esq.  
Joseph Mingolla, Esq.  
Mrs. Bonelli  
Mrs. Trotman  
Mrs. Jackson  
Kristi Severance